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To: Microsoft ATR
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Subject: Microsoft Settlement

A Better Settlement Proposal

Microsoft was found guilty of violating antitrust law. Microsoft has never abided by any previous findings or judgements beyond the narrowest definition of the letter. During the various legal proceedings, Microsoft continuously demonstrated its contempt for the law and its process. The proposed settlement is, more than anything else, a license for Microsoft to continue and extend its abusive behavior at the expense of the consumer and the industry.

Accepting the settlement as is would be an outrage.

There must be punishment for previous crimes. There must be compensation for the vast quantity of parties injured by these crimes. There must be consequence for continued, renewed, and new anti-competitive behaviors. And, there must be a mechanism to deter Microsoft from dragging out process, as has been their habit and intent, to outlast competitors, judges, and public attention.

It is with these points in mind that I suggest the following:

1) Require that Microsoft make public all file formats and APIs, past, present, and future, without charge, to anyone who asks. There can be no squirm room here, no hiding behind a supposed need for Microsoft to safeguard internal secrets. Microsoft has always used file formats and APIs as weapons to injure customers and competitors, and any loss of business advantage from this requirement would be a minimal and fair compensation to the world at large.

2) Implement a penalty schedule to force compliance of Item 1. For each file format or API not already published, a clock would start at the first request for it, and a fine imposed for every week said item is not made publicly available. This fine would increase geometrically: a weekly fine would start at \$100,000 and be doubled and collected each week. The total cost of delay for four weeks would thus be \$1,500,000, and for eight weeks it would be \$25,500,000. The fines and penalty schedules for information requests would be independent - by dragging its feet, Microsoft could wind up paying several fines at varying penalty levels at the same time.

This geometric increase is essential, as it addresses the important issue of time, which Microsoft has always used as an ally. Any notion of these fines being ruinous is easily dispelled by two points: 1) all fines can be avoided by immediately complying with information requests, and 2) this is punishment, after all - Microsoft has no business asking for mercy, having always acted with brutality and bad faith in their dealings.

Information may not be withheld for reasons of presentability. Or, rather, if Microsoft cares to polish its presentation, or disentangle it from, say, strategic business information, there would be a known cost for delaying its publication. Again, there can be no excuse for non-compliance. Penalties must be exacted with the extreme prejudice justified by judicial findings and Microsoft's historical refusal to comply with the law.

It is important that fines be collected as they are incurred. There should be no incentive for Microsoft to

delay compliance, or hope that by running up a huge total fine they might gain public sympathy and again escape punishment. On the contrary, delay of payment should be met by freezing of their assets and forced collection. There can be no fear of enforcing the law - after all, there is nothing that Microsoft makes that is essential to the economy. To the contrary, the economy has suffered long enough at the hands of Microsoft, and Microsoft needs to learn how to become a proper citizen. The hard way, if necessary.

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